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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/844,057	04/27/2001	Anthony S. Volpe	VAK-PT005.1	2706
3624	7590	04/04/2005	EXAMINER	
VOLPE AND KOENIG, P.C. UNITED PLAZA, SUITE 1600 30 SOUTH 17TH STREET PHILADELPHIA, PA 19103			FLANDERS, ANDREW C	
			ART UNIT	PAPER NUMBER
			2644	

DATE MAILED: 04/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/844,057

Applicant(s)

VOLPE ET AL.

Examiner

Andrew C Flanders

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 April 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. **Claims 12, 13, 15, 16 and 20 - 23** are rejected under 35 U.S.C. 102(e) as being anticipated by Leeke (U.S. Patent 6,587,127).

Regarding **Claims 12, 20 and 23**, Leeke discloses auxiliary information is dependent upon the type of event and is displayed in response to receiving a user selection (col. 17 lines 33 – 38) storing advertising images and audio files to the storage device (col. 48 lines 38 - 47) and the auxiliary information can be used to temporarily arrange events on the timeline so an event can be selected by the end user and to insert advertising in the form of markers at predetermined locations along the time scale (col. 17 lines 50 – 55) (i.e. gathering event specific material associated with the predetermined event; producing a recorded performance by complementarily arranging a DJ's performance material with the gathered material and event specific material; and playing the recorded performance at the predetermined event).

Regarding **Claim 13**, in addition to the elements stated above regarding claim 12, Leeke further discloses the auxiliary information, which includes guest information,

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allows additional functionality such as arranging events and inserting advertising (col. 17 lines 50 – 55) (i.e. wherein the gathering of event specific material is in response to a play list and guest information)

Regarding **Claim 15**, in addition to the elements stated above regarding claim 12, Leeke further discloses the auxiliary information allows additional functionality such as arranging events (col. 17 lines 50 – 55) (i.e. wherein the complementary arrangement of the recorded performance is based on in part an event itinerary).

Regarding **Claim 16**, in addition to the elements stated above regarding claim 12, Leeke discloses auxiliary information is dependent upon the type of event and is displayed in response to receiving a user (event client) selection (col. 17 lines 33 – 38) (i.e. further comprising an event client providing pertinent information regarding the predetermined event).

Regarding **Claim 21**, in addition to the elements stated above regarding claim 20, Leeke disclose a content delivery component including a player resides on the server which provides user selected audio content for playback (col. 4 lines 50 – 56) (i.e. wherein said gathering means includes an Internet website having an input configured to receive event specific material provided by an event client).

Regarding **Claim 22**, in addition to the elements stated above regarding claim 20, Leeke further discloses that the player includes a computer program (col. 4 lines 50 – 56) (i.e. wherein the playing means includes computer).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims **1 – 3, 5 – 11, 14, 17 and 19** are rejected under 35 U.S.C. 103(a) as being unpatentable over Leeke (U.S. Patent 6,587,127)

Regarding **Claim 1**, Leeke discloses a storage device (fig. 1 element 132) (a recording media) and auxiliary information dependent upon the type of event (col. 17 lines 33 – 45) (i.e. a selection of event specific material), storing advertising images and audio files to the storage device (col. 48 lines 38 - 47) (i.e. DJ performance materials complementary arranged and fixed on the recording media with the event specific material) and either in-band signaling or out-of-band signaling can be used to trigger the images and audio files (col. 48 lines 38 - 47) (i.e. a recording media selected for broadcast at a predetermined event). Leeke does not specifically disclose storing the auxiliary information on the storage device. However, it would have been obvious for one of ordinary skill in the art to store the information on a non-volatile media such as the storage device as disclosed by Leeke. Leeke discloses the auxiliary information is displayed in response to receiving a user-initiated selection of the information control (col. 17 lines 33 – 37). To enhance user interaction and to prevent information loss during a system crash, it would be desirable to store the information to the storage

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device. Storing the information to the storage media would allow a user to quickly recover from a system crash and reduce the amount of information a user would have to re-enter.

Regarding **Claim 2**, in addition to the elements stated above regarding claim 1, Leeke further discloses storing audio files to the storage device (col. 48 lines 38 - 47) (i.e. wherein the recording media is an audio media).

Regarding **Claim 3**, in addition to the elements stated above regarding claim 1, Leeke further discloses storing advertising images and audio files to the storage device (col. 48 lines 38 - 47) (i.e. wherein the recording media is audio and visual).

Regarding **Claim 5**, in addition to the elements stated above regarding claim 1, Leeke discloses the storage device can include a CD-ROM drive (col. 4 lines 40 - 45) (i.e. wherein the recording media is a compact disc)

Regarding **Claim 6**, in addition to the elements stated above regarding claim 1, Leeke discloses the storage device can include a CD-ROM drive (col. 4 lines 40 - 45) (i.e. wherein the recording media is a compact disc read only memory)

Regarding **Claim 7**, in addition to the elements stated above regarding claim 3, Leeke further discloses storing advertising images to the storage device (col. 48 lines 38 - 47) (i.e. wherein the recording media includes pictures for display at the predetermined event).

Regarding **Claim 8**, in addition to the elements stated above regarding claim 3, Leeke discloses a slide show of images during playback (col. 22 lines 56 - 62) (i.e. wherein the recording media includes a slide show display at the predetermined event).

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Leeke discloses this in a separate embodiment than the ones disclosed regarding the elements of claim 3. However it would have been obvious to incorporate this feature into the advertisement image playback from the storage device. Displaying pictures in a slide show format in conjunction with audio playback is notoriously well known in the art and it would have been obvious to integrate these features for the purpose of a more pleasing and thus more effective advertisement.

Regarding **Claim 9**, in addition to the elements stated above regarding claim 1, allowing a user to specify and save a play list of events that allows a user to jump to different audio selections (col. 17 lines 22 – 32) (i.e. wherein the recording media includes songs from a play list).

Regarding **Claim 10**, in addition to the elements stated above regarding claim 1, Leeke discloses auxiliary information which is dependent upon the type of event and includes guest information (col. 17 lines 48 – 42) (i.e. wherein the event specific material includes guest information).

Regarding **Claim 11**, in addition to the elements stated above regarding claim 1, Leeke further discloses synchronizing display of an image to playback of audio content (col. 49 lines 59 – 60) (i.e. software to enable a display of visual effects synchronized with audio portions of the DJ performance materials). Leeke does not disclose storing this playback method on the storage media. However, it would have been obvious to one of ordinary skill in the art to incorporate this feature into the advertisement playback in order to effectively playback the ads without delay. Leeke discloses caching images and audio to the storage device to improve system performance (col. 48 lines 38 – 42).

Regarding **Claim 14**, in addition to the elements stated above regarding claim 13, Leeke further discloses the auxiliary information includes location information (idiosyncrasies) and topics (stories) (col. 17 lines 38 – 46) (i.e. wherein the information includes stories and idiosyncrasies). Leeke does not explicitly disclose the information and topics are guest information. However, it would have been obvious to one of ordinary skill in the art to apply this information as part of the guest information as disclosed by Leeke. For instance, Leeke discloses that the auxiliary information can include a current score for the guests. It would have been obvious to further apply the location of the guests and the topics as Leeke has done with the score.

Regarding **Claim 17**, in addition to the elements stated above regarding claim 12, Leeke discloses storing advertising images and audio files to the storage device (col. 48 lines 38 - 47), the storage device is a CD-ROM drive (col. 4 line 40 – 44) (i.e. the recorded performance in a recording media). Leeke does not explicitly disclose providing the media to the event client, however, it is obvious that storing the media to a CD-ROM makes it portable and allows the user (event client) to transport it to other locations.

Regarding **Claim 19**, in addition to the elements stated above regarding claim 17, Leeke does not disclose accepting a security deposit from the event client prior to the step of providing. However, Examiner takes official notice that taking a security deposit prior to providing goods or services is notoriously well known in the art. One would be motivated to accept a security deposit prior to the step of providing in order to

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limit lost profits in a situation where the system as disclosed by Leeke being used is damaged.

5. **Claims 3, 18 and 24** is rejected under 35 U.S.C. 103(a) as being unpatentable over Leeke (U.S. Patent 6,587,127) in view of Bakos (U.S. Patent 6,511,728).

Regarding **Claims 3, 18 and 24**, Bakos discloses an optical media that can only be used for a limited time period (col. 2 lines 63 – 67) (i.e. wherein the recording media has a predetermined life span). It would have been obvious to one of ordinary skill in the art to use Bakos DVD on Leeke's system. It is merely one of the many straightforward implementations that may be used as a recording media does show the excise of inventive skill.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew C Flanders whose telephone number is (571) 272-7516. The examiner can normally be reached on M-F 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh Tran can be reached on (571) 272-7564. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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